

## **REMARKS**

Claims 1-24 remain pending in the present application. Claims 1 and 13 have been amended. Basis for the amendments can be found throughout the specification, claims and drawings as originally filed.

### **REJECTION UNDER 35 U.S.C. § 102**

Claims 1-12 and 21-23 are rejected under 35 U.S.C. § 102(b) as being anticipated by Smith, et al. (U.S. Pat. No. 4,548,389). Applicants respectfully traverse this rejection.

In order to be a proper 35 U.S.C. § 102 reference, the reference must show that the invention was patented or described in a printed publication in this or in a foreign country more than one year prior to the date of application. The Examiner's position is that Smith, et al. describes or discloses Applicants' invention. Applicants respectfully disagree with the Examiner.

The Examiner defines pressure tube 11 that forms a working chamber and then proceeds to define the rod guide assembly as comprising a main housing which is interpreted as a part of the pressure tube 11 that surrounds the guide assembly.

Claim 1 of the presently pending claims defines a pressure tube and a piston rod. The rod guide assembly is defined as being between the piston rod and the pressure tube (lines 9-10). The rod guide assembly is defined as comprising a main housing. Since the main housing is a part of the rod guide assembly and the rod guide assembly is between the piston rod and the pressure tube, the main housing is defined as being between the piston rod and the pressure tube. Thus, the Examiner's definition of the

main housing as a portion of the pressure tube 11 is not a viable component in Smith, et al. since it is not possible for the pressure tube to be located between the pressure tube and itself.

Applicants have amended Claim 1 in order to avoid the interpretation of the outer portion of bushing 50 as being interpreted as the claimed main housing. The main housing of amended Claim 1 is defined as guiding the movement of the piston rod. Bushing 50 clearly does not guide the movement of the piston rod in Smith, et al., bushing 21 does. In addition, the annular bearing has been defined as slidingly engaging the piston rod. Bushing 50 clearly has a significant clearance with piston rod 12 as shown in Figure 3. Finally Claim 1 has been amended to define the lubrication channel as being around an outside diameter of the bearing. The equivalent of this channel is not disclosed in Smith, et al.

Thus, Applicants believe Claim 1, as amended, patentably distinguishes over the art of record. Likewise, Claims 2-12 and 21-23, which ultimately depend from Claim 1, are also believed to patentably distinguish over the art of record. Reconsideration of the rejection is respectfully requested.

#### **REJECTION UNDER 35 U.S.C. § 103**

Claim 24 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith, et al. in view of Ishida (U.S. Pat. No. 4,360,192). Applicants respectfully traverse this rejection. Claim 24 ultimately depends from Claim 1. As stated above, Claim 1 has been amended and is now believed to patentably distinguish over the art of record.

Thus, Claim 24 is also believed to patentably distinguish over the art of record. Reconsideration of the rejection is respectfully requested.

#### **ENTRANCE OF AMENDMENT**

Applicants respectfully request entrance of this amendment. As discussed above, the definition in Smith, et al. of the elements of the present invention by the Examiner is believed to be incorrect since the pressure tube cannot be located between the piston rod and itself. Thus, Applicants believe withdrawal of the finality of the previous Office Action is appropriate.

#### **ALLOWABLE SUBJECT MATTER**

Claims 13-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 13 depended from Claim 1. Claim 13 has been amended to independent form to include the limitations of Claim 1 (before amending). Thus, Applicants believe Claim 13 is allowable. Claims 14-20 ultimately depend from Claim 13 and are thus also believed to be allowable.

#### **CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office

Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: August 9, 2005

By: 

Michael J. Schmidt, 34,007

HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. Box 828  
Bloomfield Hills, Michigan 48303  
(248) 641-1600

MJS/pmg